

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

DJ Stephanco Auto Services, LLC, David J. Stephan, John Matt Rembert, and Foundation Builders, LLC v. Alnoor Malick and Shelina Malick; Alnoor Malick and Shelina Malick v. Foundation Builders, LLC

No. 01-12-01086-CV, Court of Appeals for the First District of Texas (May 7, 2015)

SUMMARY

The Texas Court of Appeals reinstated the appeal after a bankruptcy stay and granted motions dismissing the appeals of DJ Stephanco Auto Services, LLC, David J. Stephan, Foundation Builders, LLC, and Alnoor and Shelina Malick. John Matt Rembert's appeal remained pending, and the court stated that the interlocutory order would become final when judgment was issued in the cause.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Per Curiam; Chief Justice Radack; Justice Brown; Justice Lloyd
JURISDICTION	Texas
DECIDED	May 7, 2015
DOCKET	01-12-01086-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Consolidated appeals from the September 10, 2012 final judgment of the 189th District Court of Harris County. During the appeals, one appellant filed a suggestion of bankruptcy, resulting in a stay. Several parties later moved to dismiss their appeals with prejudice based on settlements.
PRECEDENTIAL VALUE	published memorandum order
PARTIES	DJ Stephanco Auto Services, LLC, David J. Stephan, John Matt Rembert, Foundation Builders, LLC, Alnoor Malick, Shelina Malick v. Alnoor Malick, Shelina Malick, Foundation Builders, LLC

TOPICS

[appellate procedure](#)[mootness](#)[automatic stay](#)[bankruptcy](#)[civil procedure](#)

PRACTICE AREAS

Appellate procedure

Civil procedure

Bankruptcy

QUESTIONS PRESENTED

1. Whether the appellate court should reinstate the stayed appeals after the bankruptcy-related stay.
2. Whether the appeals of DJ Stephanco Auto Services, David J. Stephan, Foundation Builders, LLC, and Alnoor and Shelina Malick should be dismissed with prejudice based on the parties' settlement and motions to dismiss.
3. Whether pending motions related to DJ Stephanco Auto Services and David J. Stephan's appeal should be dismissed as moot.
4. Whether John Matt Rembert's appeal should remain pending because the motions did not establish that the matters underlying his appeal had been resolved.

HOLDINGS

1. The court reinstated the appeal after the bankruptcy-related stay.
2. The court granted the motions to dismiss with prejudice and dismissed the appeals of DJ Stephanco Auto Services, LLC, David J. Stephan, Foundation Builders, LLC, and Alnoor and Shelina Malick.
3. The court dismissed as moot DJ Stephanco Auto Services and David J. Stephan's pending motions to dismiss, their motion to withdraw a motion to dismiss, and any other pending motions.
4. John Matt Rembert's appeal remained pending because the dismissal motions did not establish that the matters underlying his appeal had been resolved.

KEY QUOTATIONS

“John Matt Rembert’s appeal remains pending.” (at 2)

“This interlocutory order will become final when a judgment is issued in this cause number.” (at 2)

FACTUAL BACKGROUND

The underlying litigation involved a judgment awarding the Malicks damages against John Matt Rembert, David Stephan, and DJ Stephanco Auto Services, LLC, jointly and severally, as well as attorney's fees against Rembert. During the appellate proceedings, DJ Stephanco Auto Services filed a suggestion of bankruptcy, and the bankruptcy court approved a global settlement involving Stephan, the Malicks, and others. The Malicks and Foundation Builders also represented that they had resolved their disputes.

PROCEDURAL HISTORY

The trial court entered final judgment on September 10, 2012. Multiple parties filed notices of appeal. After DJ Stephanco Auto Services filed a suggestion of bankruptcy, the appellate proceedings were stayed. The court reinstated the appeal, granted the parties' settlement-based motions to dismiss specified appeals with prejudice, dismissed related pending motions as moot, and allowed John Matt Rembert's appeal to remain pending.

DISPOSITION

dismissed

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